

REMARKS

Claim 5 has been rejected under 35 U.S.C. 102(e) as being anticipated by Nagata (6,396,288). Claims 40 and 41 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Nagata, et al. Claim 6 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Nagata in view of Michaels. Claim 7 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Nagata in view of Davidov.

Applicant respectfully traverses the grounds for rejection and requests reconsideration thereof. Independent claim 5 relates to a microwave sensor that is being used to measure the contents of the container. The cited reference fails to meet the basic requirement that the device is being used to measure a material within the container. In Nagata the contents of the "container" 35 is not the material being measured. Rather the components 20, 22, 38 that are within "container" 35 constitute the device that is being used to measure a material 48 that is resting on top of the container 35. There is no teaching in Nagata regarding a sensor that transmits a signal through the container to measure the contents thereof.


The rejection of the claims is believed to be obviated in view of the amendments and remarks.

Application No. 09/834,040
Filed: April 12, 2001
TC Art Unit: 2133
Confirmation No.: 1765

The Examiner is encouraged to telephone the undersigned attorney to discuss any matter that would expedite allowance of the present application.

Respectfully submitted,

DEWITT C. SEWARD, IV, ET AL.

By: 
Thomas O. Hoover
Registration No. 32,470
Attorney for Applicant(s)

WEINGARTEN, SCHURGIN,
GAGNEBIN & LEOVICI LLP
Ten Post Office Square
Boston, MA 02109
Telephone: (617) 542-2290
Telecopier: (617) 451-0313

TOH/dxr/319858_1